

Order

Michigan Supreme Court
Lansing, Michigan

October 27, 2010

Marilyn Kelly,
Chief Justice

141733

Michael F. Cavanagh
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway
Alton Thomas Davis,
Justices

SHELLEY SUNDE,
Plaintiff-Appellant,

v

SC: 141733
COA: 297127
Oakland CC: 2008-742853-DM

RONALD SUNDE,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the July 30, 2010 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Oakland Circuit Court, Family Division, for reconsideration of the plaintiff's motion to change the domicile of the minor children. The trial court made findings of fact and conclusions of law pursuant to MCL 722.31 on the basis of an incomplete factual record. At a minimum, the trial court erred when it disregarded the plaintiff's proffered proof of the defendant's history of domestic violence—factor (e) under MCL 722.31(4). On remand, unless the parties agree to a different procedure, the trial court shall allow both parties to present testimony and evidence in support of their respective claims regarding the statutory factors, as well as up-to-date information or evidence of other changes in circumstance arising since the trial court's most recent order. The trial court shall then rule on the motion by determining, with the children as the primary focus, whether the plaintiff, as the parent with whom the children have an established custodial environment, has established by a preponderance of the evidence that the change of domicile is warranted.

We do not retain jurisdiction.



d1027

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 27, 2010

Corbin R. Davis

Clerk